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APR 22 2005

## USPTO FACSIMILE TRANSMITTAL SHEET

Page 1 of 1

Docket No.: ONCOSIS.005A

**CUSTOMER NO. 20995**

Applicant : Koller, et al.  
 App. No : 10/698,343  
 Filed : October 31, 2003  
 For : METHOD AND APPARATUS FOR CELL  
 PERMEABILIZATION  
 Examiner : Fernandez, Susan Emily  
 Art Unit : 1651

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April 22, 2005

(Date)

Paul C. Steinhardt, Reg. No. 30.806

Mail Stop Amendment  
 Commissioner for Patents  
 P.O. Box 1450  
 Alexandria, VA 22313-1450

Dear Sir:

Enclosed for filing in the above-identified application are:

(X) RESPONSE TO RESTRICTION REQUIREMENT in two (2) pages.  
 (X) The Commissioner is hereby authorized to charge any additional fees which may be required, or  
 credit any overpayment, to Account No. 11-1410.

Paul C. Steinhardt  
 Registration No. 30.806  
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ONCOSIS.005A

PATENT

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Koller et al.  
 Appl. No. : 10/698,343  
 Filed : October 31, 2003  
 For : METHOD AND APPARATUS  
       FOR CELL PERMEABILIZATION  
 Examiner : Fernandez, Susan Emily  
 Group Art Unit : 1651

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Paul C. Steinhardt, Reg. No. 30.806

RESPONSE TO RESTRICTION REQUIREMENT

**Mail Stop Amendment**  
 Commissioner for Patents  
 P.O. Box 1450  
 Alexandria, VA 22313-1450

Dear Sir:

In response to the Office Action dated March 24, 2005, Applicants submit the following  
 provisional election and response traversing the restriction requirement.

Applicants' Provisional Election

Applicants provisionally elect with traverse Group I which the Examiner indicated includes  
 Claims 1-34.

Applicants' Traverse

Claims 1-44 are pending in the application. The restriction requirement divides these claims  
 into three different groups. According to the restriction requirement Group I (Claims 1-34) is directed  
 to a method of transiently permeabilizing one or more cells, classified in class 435, subclass 173.5;  
 Group II (Claims 35-43) is drawn to an apparatus for transiently permeabilizing a cell, classified in class  
 435, subclass 285.2; and Group III (Claim 44) is drawn to a system with a memory comprising a set of  
 instructions, classified in class 711, subclass 100. The restriction requirement states that the inventions  
 of Groups I, II, and III are distinct.

Applicants respectfully traverse the restriction requirement between Groups I and II, and request  
 that the claims of those groups be examined together in the instant application. For a restriction

Appl. No. : 10/698,343  
Filed : October 31, 2003

requirement to be proper "there must be a serious burden on the examiner if restriction is required." See M.P.E.P. § 803.

Examination of the claims of Groups I and II together would result in a minimal burden on the Office, and in fact, is likely to be less burdensome. Here, Groups I and II are classified in the same class, class 435, which is related to the technology in the field of Molecular Biology and Microbiology. Further, within class 435, Groups I and II fall under only two different (but related) subclasses, i.e. subclasses 173.5 and 285.2. A search of subclass 173.5, which includes subject matter related to the treatment of micro-organisms or enzymes with electrical or wave energy (e.g., magnetism, sonic waves, etc.) where membrane permeability is increased, also would likely include searching and review of art that will be searched in subclass 285.2, which relates to apparatus with means for applying an electric current or charge to a micro-organism (e.g., electrofusion, electroporation, etc.). Therefore, Applicants respectfully submit that the search and examination of the claims of Groups I and II together would result in little or no burden on the Office, and will likely be more efficient for the Office.

In view of above remarks, Applicants respectfully maintain that the restriction between Groups I and II is improper and request the restriction to be withdrawn.

#### CONCLUSION

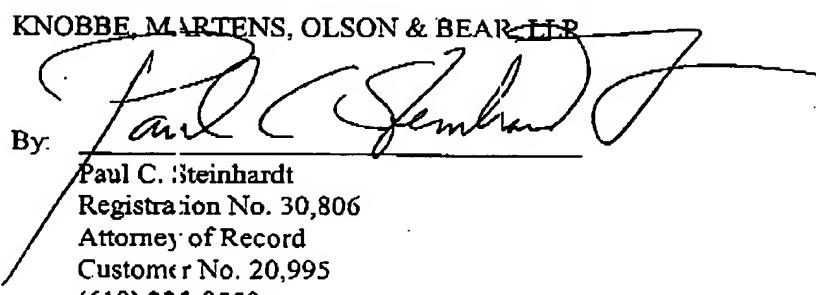
Applicants respectfully submit that the claims as presented are in condition for allowance. Therefore, Applicants respectfully request that the Examiner withdraw the restriction requirement between Groups I and II and allow the application. As this response is being timely filed, Applicants believe that there are no additional fees due in connection to the response.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

By:

  
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Dated: 4/22/05

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